

taken under this subsection shall be announced in the court-martial order promulgating the final results of the proceedings.

Discussion

See Article 75(b) and (c) concerning the action to be taken on an executed dismissal or discharge which is not imposed at a new trial.

(b) *Other cases.* In cases other than those in subsection (a) of this rule, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved by any competent authority shall be restored unless a new trial, other trial, or rehearing is ordered and such executed part is included in a sentence imposed at the new trial, other trial, or rehearing. Ordinarily, any restoration shall be announced in the court-martial order promulgating the final results of the proceedings.

Discussion

See R.C.M. 1114 concerning promulgating orders.

Rule 1209. Finality of courts-martial

(a) *When a conviction is final.* A court-martial conviction is final when:

(1) Review is completed by a Court of Criminal Appeals and—

(A) The accused does not file a timely petition for review by the Court of Appeals for the Armed Forces and the case is not otherwise under review by that court;

(B) A petition for review is denied or otherwise rejected by the Court of Appeals for the Armed Forces; or

(C) Review is completed in accordance with the judgment of the Court of Appeals for the Armed Forces and—

(i) A petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court,

(ii) A petition for writ of certiorari is denied or otherwise rejected by the Supreme Court, or

(iii) Review is otherwise completed in ac-

cordance with the judgment of the Supreme Court; or

Discussion

See R.C.M. 1201, 1203, 1204, and 1205 concerning cases subject to review by a Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the Supreme Court. See also R.C.M. 1110.

(2) In cases not reviewed by a Court of Criminal Appeals—

(A) The findings and sentence have been found legally sufficient by a judge advocate and, when action by such officer is required, have been approved by the officer exercising general court-martial jurisdiction over the accused at the time the court-martial was convened (or that officer's successor); or

(B) The findings and sentence have been affirmed by the Judge Advocate General when review by the Judge Advocate General is required under R.C.M. 1112(g)(1) or 1201(b)(1).

(b) *Effect of finality.* The appellate review of records of trial provided by the code, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by the code, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by the code, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States, subject only to action upon a petition for a new trial under Article 73, to action by the Judge Advocate General under Article 69(b), to action by the Secretary concerned as provided in Article 74, and the authority of the President.

Rule 1210. New trial

(a) *In general.* At any time within 2 years after approval by the convening authority of a court-martial sentence, the accused may petition the Judge Advocate General for a new trial on the ground of newly discovered evidence or fraud on the court-martial. A petition may not be submitted after the death of the accused. A petition for a new trial of the facts may not be submitted on the basis of newly discovered evidence when the petitioner was found